

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of DONALD GRANT, JR., Minor.

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FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

DONALD GRANT, SR.,

Respondent-Appellant.

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UNPUBLISHED

April 12, 2005

No. 258361

Newaygo Circuit Court

Family Division

LC No. 04-006005-NA

Before: Kelly, P.J., and Sawyer and Wilder, JJ.

MEMORANDUM.

Respondent appeals as of right from the trial court order terminating his parental rights to the minor child under MCL 712A.19b(3)(g) and (j). We affirm.

Although not raised by respondent on appeal, we find that the trial court erred in determining that legally admissible evidence was not required to terminate respondent's parental rights. The child's mother pleaded no contest to the initial petition, which established jurisdiction over the children and allowed the court to make dispositional orders against respondent. MCR 3.973(A); *In re CR*, 250 Mich App 185, 203, 205; 646 NW2d 506 (2002). However, respondent never pleaded to the allegations against him and there was no trial. Accordingly, because respondent was not the subject of an adjudication, legally admissible evidence was required to terminate his parental rights. *Id.* at 205-206.

However, the trial court's error does not require reversal because there was ample legally admissible evidence to establish the statutory grounds by clear and convincing evidence. MCR 3.977(J); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). The compelling testimony of Dr. Jim VanTreese, who performed a psychological evaluation of respondent, established that respondent had intellectual impairments and serious mental illnesses that would preclude him from ever being able to safely parent the child. Moreover, respondent's argument that he should have been able to attempt to parent the child with assistance from his mother is without merit. Respondent reported to Dr. VanTreese that his mother was neglectful and abusive to him. Moreover, Dr. VanTreese expressed serious concerns that, because of his mental illness, respondent could be dangerous to the child even under supervised settings.

Further, the evidence did not show that termination of respondent's parental rights was clearly not in the best interests of the child. MCL 712A.19b(5); *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000).

Affirmed.

/s/ Kirsten Frank Kelly  
/s/ David H. Sawyer  
/s/ Kurtis T. Wilder